

REMARKS

In the Office action dated September 17, 2002, claim 42 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 40-44 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,228,082 ("Baker et al. '082"). Claims 45 and 48 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,401,719 ("Farley et al. '719"), and claims 46, 47, 49 and 50 were rejected under 35 U.S.C. 103(a) as being unpatentable over Farley et al. '719 and further in view of U.S. Patent No. 6,083,223 ("Baker et al. '223").

By the present amendment, claims 42 and 45 have been amended, and claim 51 has been added. Claims 40-51 are pending in the present application. Applicant respectfully requests reconsideration of the present application.

SECTION 112 REJECTION

Claim 42 has been amended in an attempt to recite a proper Markush claim. Applicant respectfully requests that the Section 112, second paragraph, rejection be withdrawn.

SECTION 102 AND 103 REJECTIONS

In rejecting claims 40-44 as being anticipated under Section 102(e), the Office action asserted that Baker et al. '082 discloses "a catheter sized for insertion into a vein (col. 2, lines 44-49)." This text refers to "advancing one or more needle electrodes

through the outer surface of the skin to the target region of the vessel." This is illustrated in Figure 27 of Baker et al. '082, which is reproduced below:

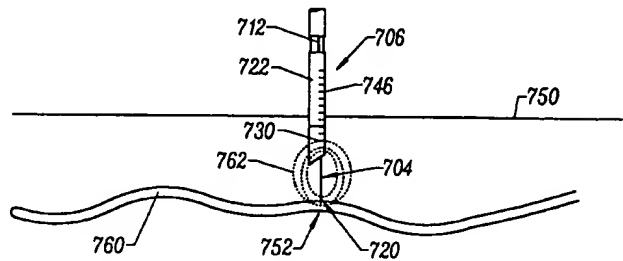


FIG. 27

Applicant respectfully submits that the rigid needle electrode (704) disclosed in Baker et al. '082 clearly is not the claimed "catheter sized for insertion into a vein," nor is it the claimed "energy application device that is expandable into apposition with the inner wall of the vein." The rigid needle electrode (704) is not a catheter, and certainly is not "expandable" as required by claim 45. Applicant respectfully requests that the Section 102(e) rejection be withdrawn.

The Office action also rejected claims 45 and 48 as being unpatentable under Section 103(a) based upon Farley et al. '719, and claims 46, 47, 49 and 50 based upon Farley et al. '719 and Baker et al. '082. Applicant respectfully submits that neither Farley et al. '719 nor Baker et al. '082 teach or suggest the "second plurality of expandable leads separately disposed at the working end longitudinally away from the first plurality of expandable leads" as recited in independent claim 45. Applicant respectfully requests that the Section 103(a) rejection be withdrawn as well.

CONCLUSION

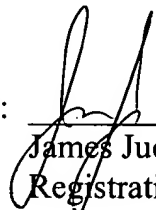
Attached hereto is a marked-up version of the changes made to the claims by the current Amendment. The attached page is captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE."

In light of the above amendments and remarks, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: _____


James Juo
Registration No. 36,177

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

42. (Amended Once) The kit of claim 40 further comprising a flushing fluid
selected from the [consisting of the following] group consisting of:

saline;

vasoconstrictive agent;

sclerosing agent;

high impedance fluid; and

heparin.

45. (Amended Once) An apparatus for applying energy from a power source
to a hollow anatomical structure, the power source being responsive to temperature
signals to control the level of power, the apparatus comprising:

a catheter having a working end and a lumen configured for fluid delivery;

a first plurality of expandable leads disposed at the working end and a
second plurality of expandable leads separately disposed at the working end
longitudinally away from the first plurality of expandable leads, wherein the leads are
formed and mounted to the catheter such that when in an unconfined configuration, the
leads have sufficient strength to move themselves outward into non-penetrating
apposition with the inner wall, and further, the leads are formed and mounted to the
catheter such that they do not have sufficient strength to prevent the reduction of the
diameter of the inner wall wherein as the inner wall reduces, the leads remain in non-

penetrating apposition with the inner wall and move inward with it, the leads also having a distal portion with an uninsulated distal tip, each lead electrically connected to the power source; and

a plurality of temperature sensors located at the leads, the sensors providing temperature signals representative of the temperature sensed at the leads by each sensor;

wherein the expandable leads are configured so as to permit the catheter to be moved in the hollow anatomical structure at the same time that the leads are applying energy to the hollow anatomical structure.